



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,506	08/14/2001	George Gerba	600253-042	8229
61834 DREIER LLP Susan Formicola 499 PARK AVE NEW YORK, NY 10022	7590 10/15/2008		EXAMINER SALTARELLI, DOMINIC D	
			ART UNIT 2421	PAPER NUMBER
			MAIL DATE 10/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/929,506

Applicant(s)

GERBA ET AL.

Examiner

DOMINIC D. SALTARELLI

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-15, 36, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-15, 36, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with filed December 5, 2007 have been considered but are not persuasive.

Applicant's amended limitation of "scrolling the advertisement cell in concurrence with the scrolling of the program cell list upon expiration of the second time portion" does not change the scope of the claims. As stated previously, the examiner is interpreting the claimed step of "determining the second time portion" to be using the number of program cells that have scrolled past a stationary advertisement cell as a metric to simply measure or represent the second time period, not to calculate it in advance. That being the case, a scrolling operation that occurs after the expiration of the second time portion, which the examiner has clearly defined as being *measured* in terms of how many cells scroll past the stationary advertisement, is merely a new scrolling operation.

As such, the examiner is maintaining the originally proposed combination, with the grounds of rejection adjusted herein to show how the prior art combination of record teaches this newly amended limitation.

Further, the official notice taken that it is notoriously well known in the art to scroll through the contents of a single cell when the textual contents of said cell are larger than the screen space allocated to a particular cell, providing means for a viewer to view the contents of said cell without resorting to a secondary display means, was not traversed by the applicant, and is thus taken as an admission of the fact herein, see MPEP 2144.03.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5-15, 36, and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. (6,177,931) [Alexander] in view of Nielsen (6,199,080, of record).

Regarding claim 1, 36, and 41, Alexander discloses a method (and user interface) for displaying advertising in an electronic program guide on a display device, the electronic program guide comprising at least a list of program cells

each containing a program choice available for viewing (fig. 1), the method comprising:

scrolling the list of program cells on the display device in a first direction in accordance with a first scrolling scheme; displaying an advertisement cell within the list of program cells (col. 22 lines 19-47);

moving the advertisement cell in the first direction in accordance with a second scheme different than the first scrolling scheme as the list of program cells scrolls in the first direction, wherein moving the advertisement cell in accordance with the second scheme comprises scrolling the advertisement cell in concurrence with the scrolling of the program cell list during a first time portion in which the program cell list scrolls ('Relative Channel Ads', which are spaced such that as a user scrolls through pages, there is one ad shown per page, col. 22 line 64 – col. 23 line 11).

Alexander fails to disclose keeping the advertisement cell stationary during a second time portion in which the program cell list scrolls; and determining the second time portion based upon a first number of program cells which have moved past the advertisement cell while the advertisement cell is kept stationary and scrolling the advertisement cell in concurrence with the scrolling of the program cell list upon expiration of the second time portion.

In an analogous art, Nielsen discloses a scrolling scheme for tabular data (figs. 13a-e) wherein a supplemental data region (region 1331), which ordinarily scrolls with the primary data, is held stationary on the screen when the edge of

the supplemental data region contacts the edge of the scrolling boundary, the 'time' the supplemental data region being held stationary being measurable by the number of table entries of primary data which scroll past it (the more a user scrolls past the scrolling boundary, the longer the supplemental data region remains stationary at said boundary, col. 16, lines 5-59, the examiner is concluding the second time period is not inclusive of time not spent scrolling by a user), providing a novel means for maintaining the supplemental data region on screen during a scrolling operation.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Alexander to include keeping the advertisement cell [supplemental data region] stationary during a second time portion in which the program cell list [primary data] scrolls; and determining the second time portion based upon a first number of program cells which have moved past the advertisement cell while the advertisement cell is kept stationary [because the second time portion does not include time not spent scrolling], as taught by Nielsen. The motivation to do so is found in Alexander, who teaches it is desirable to hold the advertisement cell on screen at all times (Alexander, col. 22, lines 42-47), and while providing two rather static means to do so (holding a fixed position relative to the top of the grid or spacing the ads such that there is one on each page), Nielsen provides a more dynamic and visually appealing means to perform holding the advertisement cell on screen at all times. This combination results in scrolling the advertisement cell in

concurrency with the scrolling of the program cell list upon expiration of the second time portion because the second time portion is defined by the number of cells which have scrolled past the advertisement cell. Thus when cells are no longer scrolling past the advertisement cell during the scrolling operation, the second time period has expired. See Nielsen, col. 12, lines 26-44, wherein when there are no more cells to move past the fixed row, the fixed row then scrolls off of the screen along with the cells during a scrolling operation.

Thus, according to the proposed combination, when a user is scrolling upwards (see Nielsen, figs. 13a(1-3)) the fixed row will scroll upwards and disappear off the screen after the last cell in the list has been scrolled off the screen past the fixed row.

Regarding claim 2, Alexander and Nielsen disclose the method of claim 1, further comprising controlling the second scheme from a location remote from the display device (a user controls the scrolling operation using a remote control, Alexander, col. 3, lines 21-36).

Regarding claim 5, Alexander and Nielsen disclose the method of claim 1, further comprising receiving the first number of program cells from a location remote from the display device (Alexander, col. 8, lines 18-35).

Regarding claim 6, Alexander and Nielsen disclose the method of claim 1, wherein the first direction comprises a vertical scrolling direction on the display device (Alexander, col. 15 line 56 – col. 16 line 26).

Regarding claim 7, Alexander and Nielsen disclose the method of claim 6, wherein the program cell list contains a top cell and a bottom cell displayed on the display device (Alexander, fig. 1), wherein keeping the advertisement cell stationary comprises keeping the advertisement cell station when the advertisement cell reaches the top or bottom cell of the program cell list (Nielsen, figs. 13d-e, region 1331 stays stationary when reaching the scrolling boundary).

Regarding claim 8, Alexander and Nielsen disclose the method of claim 1, wherein keeping the advertisement cell stationary comprises keeping the advertisement cell stationary during scrolling of a set number of program cells in the program cell list (an inherent feature, as there are a finite number of program cells in any program guide, and the use can only scroll so far before reaching the end).

Regarding claim 9, Alexander and Nielsen disclose the method of claim 1, further comprising inserting an advertisement into the advertisement cell which advertisement is related to a program cell displayed in the program guide on the display screen (Alexander, 'Parent Channel Ads', col. 23, lines 12-19).

Regarding claim 10, Alexander and Nielson disclose the method of claim 10, further comprising replacing the inserted advertisement in the advertisement cell with another advertisement when the program choices displayed in the program guide change due to scrolling of the program cells (parent channel ads will change depending on currently displayed program choices to which a user scrolls, Alexander, col. 23, lines 12-19).

Regarding claim 11, Alexander and Nielson disclose the method of claim 1, wherein the electronic program guide comprises program choices available for viewing at scheduled times, and wherein the program cells are arranged according to the scheduled times of the program choices (Alexander, fig. 1).

Regarding claim 12, Alexander and Neilson disclose the method of claim 11, further comprising inserting an advertisement into the advertisement cells which advertisement is related to a program choice available for viewing at a time close in time to the scheduled times of program choices displayed on the display screen (Alexander, fig. 1, advertisement 52).

Regarding claim 13, Alexander and Nielson disclose the method of claim 12, wherein inserting the advertisement comprises inserting the advertisement related to a program choice available for viewing at a time which is past the

scheduled times of program choices displayed on the display screen (the user is presented with an advertisement for a program about to be displayed, Alexander, col. 14, lines 47-62, in the advertisement cell, col. 15, lines 23-31, when looking at program listings for future times, col. 10, lines 30-42).

Regarding claims 14 and 15, Alexander and Neilson disclose the method of claim 1, wherein moving the advertisement cell in accordance with the second scheme comprises scrolling the advertisement cell in concurrence with the scrolling of the program cell list during a first time portion in which the program cell list scrolls ('Relative Channel Ads', which are spaced such that as a user scrolls through pages, there is one ad shown per page, Alexander, col. 22 line 64 – col. 23 line 11), and displaying a highlight cell on the display device such that program and advertisement cells may enter the highlight cell (Alexander, col. 13 line 46 – col.14 line 25).

Alexander and Neilson fail to disclose scrolling the advertisement cell during a second time portion (during which the program cell list is stationary), when the advertisement cell is entered in the highlight cell.

Examiner takes official notice that it is notoriously well known in the art to scroll through the contents of a single cell when the textual contents of said cell are larger than the screen space allocated to a particular cell, providing means for a viewer to view the contents of said cell without resorting to a secondary display means.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Alexander and Neilson to include scrolling the advertisement cell when highlighted, for the benefit of allowing a viewer to view the full contents of said cell without have to resort to a secondary display means.

Regarding claim 42, Alexander and Neilson disclose the interface of claim 41, further comprising a list of service identifiers displayed in associated with the program choices in the program choice listings (channel identifiers, Alexander, fig. 1) and a advertisement identifier contained in the list of service identifiers and displayed in association with the advertisement cell (see Alexander, fig. 1, service identifier for advertisement 52 is 'MTV').

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2421

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/
Examiner, Art Unit 2421